

MONTANA LEGISLATIVE HISTORY

Chapter 312 192001

Bill H _____ S 128

Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) 3/8 ☒ c

3/20 ☒ c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 4/18 ☒ c

4/30 ☒ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

B 126 Introduced by Bohlinger

LC0127 Drafter: Everts

Require Adoption of Sulfur Dioxide Emission Control Plans

9/08 Fiscal Note Needed
 12/19 Introduced
 12/28 Fiscal Note Requested
 1/03 First Reading
 1/03 Referred to Natural Resources
 1/09 Fiscal Note Received
 1/10 Fiscal Note Printed
 1/15 Hearing
 1/23 Tabled in Committee
 2/23 Missed Deadline for General Bill Transmittal

B 127 Introduced by Bohlinger

LC0168 Drafter: Heiman

Increase Lodging Facility Tax by 2 Percent to Fund Local Government

9/13 Fiscal Note Needed
 12/19 Introduced
 12/28 Fiscal Note Requested
 1/03 First Reading
 1/03 Referred to Taxation
 1/10 Fiscal Note Received
 1/11 Fiscal Note Printed
 1/25 Hearing
 1/31 Tabled in Committee
 3/29 Missed Deadline for Revenue Bill Transmittal

B 128 Introduced by Bohlinger

LC0296 Drafter: Lane

Increase Penalties for Promoting and Compelling Prostitution

12/19	Introduced		
12/28	Fiscal Note Requested		
1/03	First Reading		
1/03	Referred to Judiciary		
1/08	Fiscal Note Received		
1/08	Fiscal Note Signed		
1/08	Fiscal Note Printed		
1/18	Hearing		
1/30	Committee Executive Action--Bill Passed as Amended	9	0
1/30	Committee Report--Bill Passed as Amended		
2/01	2nd Reading Passed as Amended on Voice Vote	44	0
2/02	3rd Reading Passed	45	0
	Transmitted to House		
3/01	Referred to Judiciary		
3/08	Hearing		
3/21	Committee Executive Action--Bill Concurred as Amended	20	0
3/21	Committee Report--Bill Concurred as Amended		
3/27	2nd Reading Concurred	100	0
3/28	3rd Reading Concurred	99	0
	Returned to Senate with Amendments		
4/02	2nd Reading House Amendments Concurred on Voice Vote	47	0
4/03	3rd Reading Passed as Amended by House	49	0
4/03	Sent to Enrolling		
4/05	Returned from Enrolling		
4/06	Signed by President		
4/09	Signed by Speaker		

4/11 Transmitted to Governor
 4/21 Signed by Governor
 4/21 Chapter Number Assigned
 Chapter Number 312
 Effective Date: 10/01/2001 - All Sections

SB 129 Introduced by Berry

LC0385 Drafter: Fox

Implement Tobacco Settlement Trust Fund

By Request of Department of Public Health and Human Services

12/19	Introduced		
1/03	First Reading		
1/03	Referred to Finance		
1/26	Rereferred to Taxation		
1/31	Hearing		
2/01	Committee Executive Action--Bill Passed as Amended	8	0
2/01	Committee Report--Bill Passed as Amended		
2/02	2nd Reading Passed on Voice Vote	44	1
2/03	3rd Reading Passed	41	1
	Transmitted to House		
3/01	Referred to Taxation		
3/21	Hearing		
4/02	Committee Executive Action--Bill Concurred as Amended	19	1
4/03	Committee Report--Bill Concurred as Amended		
4/09	2nd Reading Concurred	100	0
4/10	3rd Reading Concurred	100	0
	Returned to Senate with Amendments		
4/12	2nd Reading House Amendments Concurred on Voice Vote	49	0
4/13	3rd Reading Passed as Amended by House	48	1
4/13	Sent to Enrolling		
4/17	Returned from Enrolling		
4/19	Signed by President		
4/20	Signed by Speaker		
4/20	Transmitted to Governor		
4/30	Signed by Governor		
4/30	Chapter Number Assigned		
	Chapter Number 467		
	Effective Date: 4/30/2001 - All Sections		

SB 130 Introduced by F. Thomas

LC0051 Drafter: McClure

Public Procedure for Transferring School Property

5/15	Fiscal Note Needed		
12/19	Introduced		
1/03	First Reading		
1/03	Referred to Education and Cultural Resources		
1/19	Hearing		
1/25	Committee Executive Action--Bill Passed as Amended	14	0
1/25	Committee Report--Bill Passed as Amended		
1/27	2nd Reading Passed on Voice Vote	42	0
1/29	3rd Reading Passed	48	0
	Transmitted to House		
1/30	Fiscal Note Requested		
2/01	Fiscal Note Received		
2/01	Fiscal Note Signed		
2/01	Referred to Education		

SENATE BILL NO. 128
INTRODUCED BY J. BOHLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE CRIMINAL PENALTIES FOR PROMOTING PROSTITUTION AND AGGRAVATED PROMOTION OF PROSTITUTION; PROVIDING FOR A MANDATORY MINIMUM SENTENCE FOR AGGRAVATED PROMOTION OF PROSTITUTION; PROVIDING FOR THE POSSIBILITY OF A LIFE SENTENCE WITHOUT POSSIBILITY OF PAROLE FOR THIRD OFFENSE AGGRAVATED PROMOTION OF PROSTITUTION; REVISING THE DEFINITIONS OF "CORRECTIONAL INSTITUTION" AND "INMATE"; AND AMENDING SECTIONS 45-2-101, 45-5-602, 45-5-603, 46-18-205, AND 46-18-219, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-2-101, MCA, is amended to read:

"45-2-101. General definitions. Unless otherwise specified in the statute, all words will be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

(1) "Acts" has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.

(2) "Administrative proceeding" means a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual.

(3) "Another" means a person or persons other than the offender.

(4) "Benefit" means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to another person or entity in whose welfare the beneficiary is interested. Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose.

(5) "Bodily injury" means physical pain, illness, or an impairment of physical condition and includes mental illness or impairment.

(6) "Cohabit" means to live together under the representation of being married.

1 (7) "Common scheme" means a series of acts or omissions motivated by a purpose to accomplish
2 a single criminal objective or by a common purpose or plan that results in the repeated commission of the
3 same offense or that affects the same person or the same persons or the property of the same person or
4 persons.

5 (8) "Computer" means an electronic device that performs logical, arithmetic, and memory
6 functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing,
7 storage, software, or communication facilities that are connected or related to that device in a system or
8 network.

9 (9) "Computer network" means the interconnection of communication systems between
10 computers or computers and remote terminals.

11 (10) "Computer program" means an instruction or statement or a series of instructions or
12 statements, in a form acceptable to a computer, that in actual or modified form permits the functioning
13 of a computer or computer system and causes it to perform specified functions.

14 (11) "Computer services" include but are not limited to computer time, data processing, and
15 storage functions.

16 (12) "Computer software" means a set of computer programs, procedures, and associated
17 documentation concerned with the operation of a computer system.

18 (13) "Computer system" means a set of related, connected, or unconnected devices, computer
19 software, or other related computer equipment.

20 (14) "Conduct" means an act or series of acts and the accompanying mental state.

21 (15) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or nolo
22 contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by
23 a court of competent jurisdiction authorized to try the case without a jury.

24 (16) "Correctional institution" means a state prison, ~~county or city jail~~ detention center,
25 multijurisdictional detention center, private detention center, regional correctional facility, private
26 correctional facility, or other institution for the incarceration ~~or custody of persons of inmates~~ under
27 sentence for offenses or the custody of individuals awaiting trial or sentence for offenses.

28 (17) "Deception" means knowingly to:

29 (a) create or confirm in another an impression that is false and that the offender does not believe
30 to be true;

(b) fail to correct a false impression that the offender previously has created or confirmed;

(c) prevent another from acquiring information pertinent to the disposition of the property involved;

(d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or

(e) promise performance that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(18) "Defamatory matter" means anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or occupation.

(19) "Deprive" means:

(a) to withhold property of another:

(i) permanently;

(ii) for such a period as to appropriate a portion of its value; or

(iii) with the purpose to restore it only upon payment of reward or other compensation; or

(b) to dispose of the property of another and use or deal with the property so as to make it unlikely that the owner will recover it.

(20) "Deviate sexual relations" means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.

(21) "Document" means, with respect to offenses involving the medicaid program, any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form.

(22) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year.

(23) "Forcible felony" means a felony that involves the use or threat of physical force or violence against any individual.

(24) A "frisk" is a search by an external patting of a person's clothing.

(25) "Government" includes a branch, subdivision, or agency of the government of the state or a locality within it.

(26) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected,

1 including loss, disadvantage, or injury to a person or entity in whose welfare the affected person is
2 interested.

3 (27) A "house of prostitution" means a place where prostitution or promotion of prostitution is
4 regularly carried on by one or more persons under the control, management, or supervision of another.

5 (28) "Human being" means a person who has been born and is alive.

6 (29) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being
7 in the possession of a person subject to official detention.

8 (30) "Inmate" means a person who ~~engages in prostitution in or through the agency of a house~~
9 ~~of prostitution~~ is confined in a correctional institution.

10 (31) (a) "Intoxicating substance" means a controlled substance, as defined in Title 50, chapter 32,
11 and an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol
12 by volume.

13 (b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced
14 by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol
15 by volume.

16 (32) An "involuntary act" means an act that is:

17 (a) a reflex or convulsion;

18 (b) a bodily movement during unconsciousness or sleep;

19 (c) conduct during hypnosis or resulting from hypnotic suggestion; or

20 (d) a bodily movement that otherwise is not a product of the effort or determination of the actor,
21 either conscious or habitual.

22 (33) "Juror" means a person who is a member of a jury, including a grand jury, impaneled by a
23 court in this state in an action or proceeding or by an officer authorized by law to impanel a jury in an
24 action or proceeding. The term "juror" also includes a person who has been drawn or summoned to attend
25 as a prospective juror.

26 (34) "Knowingly"--a person acts knowingly with respect to conduct or to a circumstance described
27 by a statute defining an offense when the person is aware of the person's own conduct or that the
28 circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute
29 defining an offense when the person is aware that it is highly probable that the result will be caused by
30 the person's conduct. When knowledge of the existence of a particular fact is an element of an offense,

1 knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such
2 as "knowing" or "with knowledge", have the same meaning.

3 (35) "Medicaid" means the Montana medical assistance program provided for in Title 53, chapter
4 6.

5 (36) "Medicaid agency" has the meaning in 53-6-155.

6 (37) "Medicaid benefit" means the provision of anything of pecuniary value to or on behalf of a
7 recipient under the medicaid program.

8 (38) (a) "Medicaid claim" means a communication, whether in oral, written, electronic, magnetic,
9 or other form:

10 (i) that is used to claim specific services or items as payable or reimbursable under the medicaid
11 program; or

12 (ii) that states income, expense, or other information that is or may be used to determine
13 entitlement to or the rate of payment under the medicaid program.

14 (b) The term includes related documents submitted as a part of or in support of the claim.

15 (39) "Mentally defective" means that a person suffers from a mental disease or defect that renders
16 the person incapable of appreciating the nature of the person's own conduct.

17 (40) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating
18 or controlling the person's own conduct as a result of the influence of an intoxicating substance.

19 (41) "Misdemeanor" means an offense for which the sentence imposed upon conviction is
20 imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is
21 imprisonment in a state prison for a term of 1 year or less.

22 (42) "Negligently"--a person acts negligently with respect to a result or to a circumstance described
23 by a statute defining an offense when the person consciously disregards a risk that the result will occur
24 or that the circumstance exists or when the person disregards a risk of which the person should be aware
25 that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to
26 disregard it involves a gross deviation from the standard of conduct that a reasonable person would
27 observe in the actor's situation. "Gross deviation" means a deviation that is considerably greater than lack
28 of ordinary care. Relevant terms, such as "negligent" and "with negligence", have the same meaning.

29 (43) "Nolo contendere" means a plea in which the defendant does not contest the charge or
30 charges against the defendant and neither admits nor denies the charge or charges.

1 (44) "Obtain" means:

2 (a) in relation to property, to bring about a transfer of interest or possession, whether to the
3 offender or to another; and

4 (b) in relation to labor or services, to secure the performance of the labor or service.

5 (45) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the
6 sale, conveyance, or transfer of title to, interest in, or possession of property.

7 (46) "Occupied structure" means any building, vehicle, or other place suitable for human
8 occupancy or night lodging of persons or for carrying on business, whether or not a person is actually
9 present. Each unit of a building consisting of two or more units separately secured or occupied is a
10 separate occupied structure.

11 (47) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or
12 punished for a public offense.

13 (48) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is
14 authorized. Offenses are classified as felonies or misdemeanors.

15 (49) "Official detention" means imprisonment resulting from a conviction for an offense,
16 confinement for an offense, confinement of a person charged with an offense, detention by a peace officer
17 pursuant to arrest, detention for extradition or deportation, or lawful detention for the purpose of the
18 protection of the welfare of the person detained or for the protection of society. Official detention does
19 not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest
20 unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

21 (50) "Official proceeding" means a proceeding heard or that may be heard before a legislative, a
22 judicial, an administrative, or another governmental agency or official authorized to take evidence under
23 oath, including any referee, hearings examiner, commissioner, notary, or other person taking testimony
24 or deposition in connection with the proceeding.

25 (51) "Other state" means a state or territory of the United States, the District of Columbia, and
26 the Commonwealth of Puerto Rico.

27 (52) "Owner" means a person other than the offender who has possession of or other interest in
28 the property involved, even though the interest or possession is unlawful, and without whose consent the
29 offender has no authority to exert control over the property.

30 (53) "Party official" means a person who holds an elective or appointive post in a political party

1 in the United States by virtue of which the person directs or conducts or participates in directing or
2 conducting party affairs at any level of responsibility.

3 (54) "Peace officer" means a person who by virtue of the person's office or public employment
4 is vested by law with a duty to maintain public order or to make arrests for offenses while acting within
5 the scope of the person's authority.

6 (55) "Pecuniary benefit" is benefit in the form of money, property, commercial interests, or
7 anything else the primary significance of which is economic gain.

8 (56) "Person" includes an individual, business association, partnership, corporation, government,
9 or other legal entity and an individual acting or purporting to act for or on behalf of a government or
10 subdivision of government.

11 (57) "Physically helpless" means that a person is unconscious or is otherwise physically unable to
12 communicate unwillingness to act.

13 (58) "Possession" is the knowing control of anything for a sufficient time to be able to terminate
14 control.

15 (59) "Premises" includes any type of structure or building and real property.

16 (60) "Property" means a tangible or intangible thing of value. Property includes but is not limited
17 to:

- 18 (a) real estate;
- 19 (b) money;
- 20 (c) commercial instruments;
- 21 (d) admission or transportation tickets;
- 22 (e) written instruments that represent or embody rights concerning anything of value, including
23 labor or services, or that are otherwise of value to the owner;
- 24 (f) things growing on, affixed to, or found on land and things that are part of or affixed to a
25 building;
- 26 (g) electricity, gas, and water;
- 27 (h) birds, animals, and fish that ordinarily are kept in a state of confinement;
- 28 (i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents,
29 blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models
30 thereof;

1 (j) other articles, materials, devices, substances, and whole or partial copies, descriptions,
2 photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret
3 scientific, technical, merchandising, production, or management information or a secret designed process,
4 procedure, formula, invention, or improvement; and

5 (k) electronic impulses, electronically processed or produced data or information, commercial
6 instruments, computer software or computer programs, in either machine- or human-readable form,
7 computer services, any other tangible or intangible item of value relating to a computer, computer system,
8 or computer network, and copies thereof.

9 (61) "Property of another" means real or personal property in which a person other than the
10 offender has an interest that the offender has no authority to defeat or impair, even though the offender
11 may have an interest in the property.

12 (62) "Public place" means a place to which the public or a substantial group has access.

13 (63) "Public servant" means an officer or employee of government, including but not limited to
14 legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator,
15 executor, guardian, or court-appointed fiduciary. The term does not include witnesses. The term "public
16 servant" includes one who has been elected or designated to become a public servant.

17 (64) "Purposely"--a person acts purposely with respect to a result or to conduct described by a
18 statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that
19 result. When a particular purpose is an element of an offense, the element is established although the
20 purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law
21 defining the offense. Equivalent terms, such as "purpose" and "with the purpose", have the same
22 meaning.

23 (65) (a) "Serious bodily injury" means bodily injury that:

24 (i) creates a substantial risk of death;

25 (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or
26 process of a bodily member or organ; or

27 (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement
28 or protracted loss or impairment of the function or process of a bodily member or organ.

29 (b) The term includes serious mental illness or impairment.

30 (66) "Sexual contact" means touching of the sexual or other intimate parts of the person of

1 another, directly or through clothing, in order to knowingly or purposely:

2 (a) cause bodily injury to or humiliate, harass, or degrade another; or

3 (b) arouse or gratify the sexual response or desire of either party.

4 (67) (a) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the
5 penis of another person, penetration of the vulva or anus of one person by a body member of another
6 person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated
7 by another person to knowingly or purposely:

8 (i) cause bodily injury to or humiliate, harass, or degrade; or

9 (ii) arouse or gratify the sexual response or desire of either party.

10 (b) For purposes of subsection (67)(a), any penetration, however slight, is sufficient.

11 (68) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise
12 another to commit an offense.

13 (69) "State" or "this state" means the state of Montana, all the land and water in respect to which
14 the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and
15 water.

16 (70) "Statute" means an act of the legislature of this state.

17 (71) "Stolen property" means property over which control has been obtained by theft.

18 (72) A "stop" is the temporary detention of a person that results when a peace officer orders the
19 person to remain in the peace officer's presence.

20 (73) "Tamper" means to interfere with something improperly, meddle with it, make unwarranted
21 alterations in its existing condition, or deposit refuse upon it.

22 (74) "Telephone" means any type of telephone, including but not limited to a corded, uncoded,
23 cellular, or satellite telephone.

24 (75) "Threat" means a menace, however communicated, to:

25 (a) inflict physical harm on the person threatened or any other person or on property;

26 (b) subject any person to physical confinement or restraint;

27 (c) commit a criminal offense;

28 (d) accuse a person of a criminal offense;

29 (e) expose a person to hatred, contempt, or ridicule;

30 (f) harm the credit or business repute of a person;

(g) reveal information sought to be concealed by the person threatened;

(h) take action as an official against anyone or anything, withhold official action, or cause the action or withholding;

(i) bring about or continue a strike, boycott, or other similar collective action if the person making the threat demands or receives property that is not for the benefit of groups that the person purports to represent; or

(j) testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(76) (a) "Value" means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value must be determined as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied.

(ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(iii) The value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition of the item.

(b) When it cannot be determined if the value of the property is more or less than \$1,000 by the standards set forth in subsection (76)(a), its value is considered to be an amount less than \$1,000.

(c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(77) "Vehicle" means a device for transportation by land, water, or air or by mobile equipment,

1 with provision for transport of an operator.

2 (78) "Weapon" means an instrument, article, or substance that, regardless of its primary function,
3 is readily capable of being used to produce death or serious bodily injury.

4 (79) "Witness" means a person whose testimony is desired in an official proceeding, in any
5 investigation by a grand jury, or in a criminal action, prosecution, or proceeding."

6
7 **Section 2.** Section 45-5-602, MCA, is amended to read:

8 **"45-5-602. Promoting prostitution.** (1) A person commits the offense of promoting prostitution
9 if ~~he~~ the person purposely or knowingly commits any of the following acts:

10 (a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association
11 with others, a house of prostitution or a prostitution business;

12 (b) procures an ~~inmate~~ individual for a house of prostitution or a place in a house of prostitution
13 for ~~one who would be an inmate~~ an individual;

14 (c) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;

15 (d) solicits ~~a person~~ another to patronize a prostitute;

16 (e) procures a prostitute for a patron;

17 (f) transports ~~a person~~ an individual into or within this state with the purpose to promote that
18 ~~person's~~ individual's engaging in prostitution or procures or pays for transportation with that purpose;

19 (g) leases or otherwise permits a place controlled by the offender, alone or in association with
20 others, to be regularly used for prostitution or for the procurement of prostitution or fails to make
21 reasonable effort to abate ~~such that~~ use by ejecting the tenant, notifying law enforcement authorities, or
22 using other legally available means; or

23 (h) lives in whole or in part upon the earnings of ~~a person~~ an individual engaging in prostitution,
24 unless the person is the prostitute's minor child or other legal dependent incapable of self-support.

25 (2) A person convicted of promoting prostitution shall be fined an amount not to exceed ~~\$500~~
26 \$50,000 or be imprisoned in ~~the county jail~~ a state prison for ~~any~~ a term not to exceed ~~6 months~~ 20 years,
27 or both."

28
29 **Section 3.** Section 45-5-603, MCA, is amended to read:

30 **"45-5-603. Aggravated promotion of prostitution.** (1) A person commits the offense of aggravated

1 promotion of prostitution if ~~he~~ the person purposely or knowingly commits any of the following acts:

2 (a) compels another to engage in or promote prostitution;

3 (b) promotes prostitution of a child under the age of 18 years, whether or not ~~he~~ the person is
4 aware of the child's age;

5 (c) promotes the prostitution of one's spouse, child, ward, or any person for whose care,
6 protection, or support ~~he~~ the person is responsible.

7 (2) ~~(a) Except as provided in subsection (2)(b), a person convicted of aggravated promotion of~~
8 ~~prostitution shall be imprisoned~~ punished by life imprisonment, by imprisonment in the a state prison for
9 ~~any a term not to exceed 20 100 years, or be fined by a fine in an amount not to exceed \$50,000, or~~
10 ~~both.~~

11 (b) Except as provided in 46-18-219 and 46-18-222, a person convicted of aggravated promotion
12 of prostitution of a child, who at the time of the offense is under 16 years of age, shall be punished by
13 life imprisonment, by imprisonment in a state prison for a term of not less than 4 years or more than 100
14 years, or by a fine in an amount not to exceed \$100,000, or both."

15

16 **Section 4.** Section 46-18-205, MCA, is amended to read:

17 **"46-18-205. Mandatory minimum sentences -- restrictions on deferral or suspension.** (1) If the
18 victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of
19 imprisonment imposed under the following sections may not be deferred or suspended and the provisions
20 of 46-18-222 do not apply to the first 30 days of the imprisonment:

21 (a) 45-5-503, sexual intercourse without consent;

22 (b) 45-5-504, indecent exposure;

23 (c) 45-5-505, deviate sexual conduct; or

24 (d) 45-5-507, incest.

25 (2) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years
26 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:

27 (a) 45-5-103(4), mitigated deliberate homicide;

28 (b) 45-5-202, aggravated assault;

29 (c) 45-5-302(2), kidnapping;

30 (d) 45-5-303(2), aggravated kidnapping;

(e) 45-5-401(2), robbery;

(f) 45-5-502(3), sexual assault;

(g) 45-5-503(2) and (3), sexual intercourse without consent;

(h) 45-5-603, aggravated promotion of prostitution;

~~††~~(i) 45-9-101(2), (3), and (5)(d), criminal distribution of dangerous drugs;

~~††~~(j) 45-9-102(4), criminal possession of dangerous drugs; and

~~††~~(k) 45-9-103(2), criminal possession with intent to distribute dangerous drugs.

(3) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102, deliberate homicide, may not be deferred or suspended."

Section 5. Section 46-18-219, MCA, is amended to read:

"46-18-219. Life sentence without possibility of release. (1) (a) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of one of the following offenses or of an offense under the laws of another state or of the United States that, if committed in this state, would be one of the following offenses, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed:

(i) 45-5-102, deliberate homicide;

(ii) 45-5-303, aggravated kidnapping;

(iii) 45-5-503, sexual intercourse without consent;

(iv) 45-5-625, sexual abuse of children; or

(v) 45-5-627, except subsection (1)(b), ritual abuse of a minor.

(b) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of two of the following offenses, two of any combination of the offenses listed in subsection (1)(a) or the following offenses, or two of any offenses under the laws of another state or of the United States that, if committed in this state, would be one of the offenses listed in subsection (1)(a) or this subsection, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed:

(i) 45-5-103, mitigated deliberate homicide;

(ii) 45-5-202, aggravated assault;

1 (iii) 45-5-302, kidnapping; ~~or~~

2 (iv) 45-5-401, robbery; or

3 (v) 45-5-603, aggravated promotion of prostitution.

4 (2) Except as provided in 46-23-210 and subsection (3) of this section, an offender sentenced
5 under subsection (1):

6 (a) shall serve the entire sentence;

7 (b) shall serve the sentence in prison;

8 (c) may not for any reason, except a medical reason, be transferred for any length of time to
9 another type of institution, facility, or program;

10 (d) may not be paroled; and

11 (e) may not be given time off for good behavior or otherwise be given an early release for any
12 reason.

13 (3) If the offender was previously sentenced for either of two or three offenses listed in subsection
14 (1), pursuant to any of the exceptions listed in 46-18-222, then the provisions of subsections (1) and (2)
15 of this section do not apply to the offender's present sentence.

16 (4) The imposition or execution of the sentences prescribed by this section may not be deferred
17 or suspended. In the event of a conflict between this section and any provision of 46-18-201 or
18 46-18-205, this section prevails.

19 (5) (a) For purposes of this section, "prison" means a secure detention facility in which inmates
20 are locked up 24 hours a day and that is operated by this state, another state, the federal government,
21 or a private contractor.

22 (b) Prison does not include a work release center, prerelease center, boot camp, or any other type
23 of facility that does not provide secure detention."

24 - END -

FISCAL NOTE

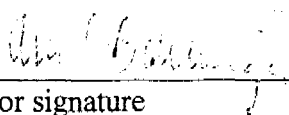
Bill #: SB0128

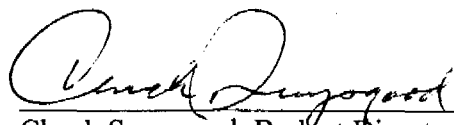
Title: Increase penalties for promoting and compelling prostitution

Primary

Sponsor: John Bohlinger

Status: As Introduced


Sponsor signature _____ Date _____


Chuck Swysgood, Budget Director _____ 1/5/01
Date

Fiscal Summary

	<u>FY2002</u> <u>Difference</u>	<u>FY2003</u> <u>Difference</u>
Expenditures:	0	0
Revenue:	0	0
Net Impact on General Fund Balance:	0	0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

- It is unlikely that SB 128 will have a fiscal impact during the next biennium due to the fact that only 3 people were sent to prison under this statute in the previous nine years.
- The legislation could have a cumulative effect in the out years as more offenders are sentenced to life.
- There is no fiscal impact to the Department of Justice.

SB 128

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY**

Call to Order: By **VICE CHAIRMAN DUANE GRIMES**, on January 18, 2001 at 9:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: None

Members Absent: Sen. Lorents Grosfield, Chairman (R)

Staff Present: Valencia Lane, Legislative Branch
Cecile Tropila, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 128
Executive Action: SB 28 & SB 209

EXECUTIVE ACTION ON SB 28

Motion: SEN. MIKE HALLIGAN moved SB 28 DO PASS.

Discussion:

SEN. JERRY O'NEIL asked if he could propose an amendment with this bill consisting of section six on page fifteen, which requires the court's review to include a standard of review.

SEN. AL BISHOP said he believed that when two people marry and have children they have created responsibility to the children rather than to their rights for each other in the marriage and the children are the most important issue.

Vote: Motion Tied 4-4 Roll call vote with **SEN. DOHERTY, SEN. HALLIGAN, SEN. PEASE** and **SEN. GRIMES** voting no. The vote to be held open until **CHAIRMAN GROSFIELD** returns.

HEARING ON SB 128

Sponsor: **SEN. JOHN BOHLINGER, SD 7 BILLINGS**

Proponents: David Morales, Director of the Child & Family Intervention Project
Mike Samson, Police Officer City of Billings
Dave Lemoine, FBI Agent
Shawna Smith, Victim of Prostitution
Mike Moreni, Police Officer City of Billings
Dennis Paxinos, Yellowstone County Attorney
Dallas Erickson, Montana Citizens for Decency Through Law
Harris Himes, Attorney

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN BOHLINGER, SD 7 BILLINGS handed in his testimony **EXHIBIT(1)**.

Proponents' Testimony:

David Morales, Director of Child & Family Intervention Project, began with mentioning the tragedies with the children who become involved with rape and abuse. He said how he dealt with many of these victims while working as a truancy officer and he received a "hands-off" policy by the schools so these children were left out on the streets where they are victims to pimps and drug dealers. He commented that there are no strong laws on the books regarding penalties for pimps or drug dealers, no way to take these people in for their crimes because these little girls and boys who became victims were too scared to come forward and testify against their perpetrator.

He added this is not just a Billings problem because the children who are affected by this crime come from all over the state of

Montana and they want to come to Billings and then the pimps and drug dealers come from other states and they do not kidnap these children, the perpetrators are convincing enough to get the children to come with them across the state line. The perpetrators receive a lot of money for selling these children, which is very sad and there needs to be a stronger force as this bill encourages to have stricter penalties for these crimes. He said that this is a national market that is making a lot of money at the costs of the lives of our children especially here in Montana.

Mike Samson, Police Officer City of Billings, explained when he began working with the Billings Police Department he was assigned a walking beat in downtown Billings and in this position he encountered many prostitutes on the street. He stated at the time of this position there were a number of pimps working the streets and working these girls, calling the circuit a 'loop', which pimps traveled from Illinois to Minnesota to Las Vegas and to Billings. Billings was a prime recruiting ground for these pimps and they would search for girls who were the most vulnerable, girls who had no family or support systems because the pimps knew that if they took one of these girls the girl would not be missed.

{Tape 2 Side A}

He mentioned how these girls would get into situations with these pimps such as being severely beaten and raped and this cycle continued with the girls who came from all over the state and brought to Billings for the market of prostitution. He added when these girls were arrested for prostitution, which is a misdemeanor charge with a fine of up to \$200, the girls would be out of jail before his report was done because the pimps would pay the fine and then beat the girls for being arrested and their quota would go up due to the bond that the pimp paid for. He felt he was punishing the victims and it was difficult for him because there wasn't enough of a penalty to stop this act and if the girls were taken across state lines they wouldn't return. He added without a victim it becomes hard to prosecute the crime and this bill may not eliminate the problem completely, but it is a step in the right direction.

Dave Lemoine, FBI Agent, said when he was assigned to Billings he worked on a drug task force and next to the drugs the other biggest problem was the situation of pimps. He had worked conspiracy cases such as the ones in Billings before and when interviewing the prostitutes he asked, to gain information, if they were abused as a child and most of the cases were. In these cases they were trying to protect children who were not protected due to socioeconomic reasons when they were younger.

He explained how these girls would get in on the circuit and leave the state traveling to all the major cities and they wouldn't stay in a location for more than two or three weeks because if they girl was arrested for prostitution the pimps would move them on. He added it was difficult to track the girls because they would use more than one name and while working the interstate crimes these cases became even harder because the evidence would then be in another state.

He mentioned over 80 girls were identified had come from Billings and traveled in this circuit to other states. He went on to explain how one girl made her way back to Montana and told the situation, but this girl was afraid to testify due to the pimp coming after her plus it makes it harder to go after these pimps when the evidence is in another state. Of course no one testifies against these pimps if the maximum sentence in jail is only six months, these girls become afraid that once the pimp has done his time he will get out and come after them. He said that if the state and local officials gain the enforcement to go after these pimps and have greater penalties for them then the crime will cut down.

Shawna Smith, Victim of Prostitution, explained she met her pimp when she was fifteen and her mom was a drug addict so she was taking care of her siblings and received fake promises from this pimp to have a better life and that is what lead her into prostitution. She said she was beaten and raped quite often and she was put out on the street to gain money for the pimp and she stayed with him due to the fake promises that he would help her family situation.

She finally decided she wanted to leave and at this time she was in California and when she arrived back to Montana she was ashamed to go home. Her mom found her and she went into the hospital where she was treated for her broken ribs and broken nose and all the beatings. She expressed how this pimp came back for her and he would beat her to make her go with him. Through tears she explained how she was able to try and fight for her life back and worked on the case with officials to get this pimp in jail, who is now convicted to twenty years, but she has to live with the pain everyday and she feels she lives in shame. She doesn't believe that the law right now means much, \$500 for a bond is nothing because these girls could make that money within two hours and six months in jail is not worth the rest of her or any of these girls lives.

{Tape 2; Side B}

Mike Moreni, Police Officer City of Billings, said he was assigned to the downtown beat and made many prostitution arrests.

He stated he worked on a task force with the FBI and indicted ten pimps and these pimps were arrested for other crimes other than prostitution because it was hard to have a girl testify against a pimp plus there was never enough evidence to frame them with prostitution. To be able to prosecute these pimps the police officers would need the testimonies from these girls and it was impossible to gain this information since the girls feared that by putting the pimp in jail they would be released in six months and be back out on the streets and abusing the girls.

Julie Millam, Christian Coalition of Montana, handed in a testimony **EXHIBIT(2)**.

Dennis Paxinos, Yellowstone County Attorney, stated within Yellowstone County more felonies are prosecuted in this area each year and zero of these are for prostitution. He said there is a large prostitution ring in Billings and the federal government is able to be successful in this area because of the ability to keep a person, who commits an offense like this, in jail pending trial without bond, which we do not have the ability to do so.

He felt promotion of prostitution should not be a misdemeanor it should be a felony and an aggravated promotion of prostitution, where you take a sixteen or less of age child and the pimp is only three years older, the treatment should be the same as children who are victims of sexual assault and children who are in sexual intercourse without consent - 100 years.

Dallas Erickson, Montana Citizens for Decency Through Law, handed in a testimony **EXHIBIT(3)**.

Harris Himes, Attorney, encouraged the committee to consider the effort of the sponsor and the proponents to testify in support of a higher penalty and possibly amending this bill to become a capital offense. He felt a no bond situation would make it easier to keep the criminal around and it would assist with finding more evidence in these crimes.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HOLDEN asked if young boys get recruited into prostitution also. **David Lemoine** answered there was not a big market for young boys in the state of Montana.

Julie Millam handed out a copy of what she researched on the internet in regard to boys and girls who get recruited into prostitution in answer to **SEN. HOLDEN'S** question. **EXHIBIT(4)**

SEN. O'NEIL asked if it would be a felony in the case of college students who solicited or urged others to be with a prostitute. **Dennis Paxinos** answered it was not the intent of the statute and it would be a stretch of the interpretation. He said this language is needed because the individual who is soliciting is trying to get the female to engage in sexual intercourse with someone else.

SEN. DOHERTY asked how many arrests were made for aggravated promotion. **Dennis Paxinos** said in his years as county attorney there has been zero prosecutions for aggravated promotions of prostitution. He mentioned part of the reason for this was due to the inability to gain a witness to testify.

SEN. DOHERTY said he noticed the definition of aggravated within the bill and asked why it had not been used as a possible tool as opposed to simple promotion. **Dennis Paxinos** stated zero to twenty may sound like a lot of time, but it isn't a lot of time in Montana because he can't get a judge to give the maximum penalty or can not get witnesses and aggravated promotion is harder to obtain.

{Tape 3; Side A}

SEN. DOHERTY said there are felony sentencing statutes and the state has tried to provide some uniformity for felony and misdemeanor statutes. He asked why was there the same monetary penalty for simple promotion as there is for aggravated. **Dennis Paxinos** answered they tried to be consistent and looked at sexual assault of a minor and the sexual intercourse without consent of a minor and that is the penalty section the committee will see within this bill.

SEN. DOHERTY asked what the fiscal impact would be to the state, there is a need to know to make contingency plans for filling the prisons who will stay for a much longer period of time. **SEN. HALLIGAN** answered there is fiscal note with this bill and there is no impact due to only three people were sent to jail under this statute in the previous nine years.

SEN. DOHERTY asked about the penalty and fine for an aggravated situation with an individual under the age of sixteen - why this age as it also states the penalties for an eighteen year old. **Dennis Paxinos** answered the language in Subsection (b) is the statute that is already in place and the new language comes from sexual intercourse without consent and sexual assault of a minor and legislation has used the age sixteen.

SEN. DOHERTY asked if the age of sixteen is already in the statutes. **Dennis Paxinos** answered yes, that is correct and the age eighteen has been on the books for years and age sixteen seemed to be the trend from the legislation during the 1990s so they were mimicking that statute.

SEN. HALLIGAN asked if under the existing statute could a higher amount of a bond be stated. **Dennis Paxinos** answered in Montana the bonding scheme is only a capital offense that can have no bond. He added that due to a penalty of 100 years he would be able to ask a judge to have a higher bond and he may or may not receive it. He said in this case if a defendant gets out of jail he will temper with the witness.

SEN. HALLIGAN asked if this bill amends the bond statutes to deal with that issue and can a no bond be used in a prostitution case. **Dennis Paxinos** answered if only this was made into a capital offense then they might be able to ask for a no bond.

Closing by Sponsor:

SEN. JOHN BOHLINGER, SD 7 BILLINGS, summarized the bill and explained it should help the pain these prostitutes experience and assist the frustrations of police officers and officials that deal with these crimes. He pointed out the testimonies the committee heard and how emotional this situation is having ruthless pimps run these girls lives. He said the inability of the present Montana law, to get convictions of these pimps, needs to be changed to help these girls and the situation in Billings and in Yellowstone County.

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 30,
2001 at 9:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Cecile Tropila, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 158, 1/26/2001
Executive Action: SB 128 & SB 222

HEARING ON SB 158

Sponsor: SEN. LORENTS GROSFIELD, SD 13, BIG TIMBER

Proponents: Karla Gray, Chief Justice of Montana Supreme Court
Bill Leaphart, Justice, Montana Supreme Court
John Connor, Representing Attorney General's
Office
Chad Wright, Appellate Defenders' Office

is no universal support for this because it becomes an issue of debate stemming from district courts to the supreme court or from the lack of clarity in laws that are passed in the legislature. He pointed out the filings and how they have increased over the years, a backlog of 633 to 868 within a year, and if that is happening every year with the same size court then this situation will get worse. He added the bill addresses a serious problem and consideration from legislators is needed to help with the concerns of the workload and concerns that every case would be appealed by the supreme court.

DISCUSSION ON SB 176:

CHAIRMAN GROSFIELD mentioned this bill needs to have a subcommittee to do more work. He felt this bill is a significant issue and it needs to come forward, but with the issues heard in the hearing a subcommittee would be needed.

SEN. MCNUTT supported the thought of a subcommittee and explained fundamentally what was discussed thus far has merit and he would recommend a subcommittee for this bill.

CHAIRMAN GROSFIELD mentioned possibly having three meetings to finalize discussions of this bill and present to the committee the recommendations within a week. He appointed **SEN. MCNUTT** to chair the committee, **SEN. GRIMES** and **SEN. HALLIGAN** to be on the committee.

EXECUTIVE ACTION ON SB 128

Motion: **SEN. O'NEIL** moved that **SB 128 BE AMENDED.**

Discussion:

SEN. O'NEIL said new language was added to this amendment adjusting it so that people involved were working for a fee.

{Tape 2; Side B}

SEN. GRIMES pointed out this amendment has existing language and he did not think this example would apply to this amendment.

SEN. O'NEIL agreed the amendment has existing language with the law as a misdemeanor, but not as a felony. He said that the general intent of the bill was to make it into a felony.

SEN. GRIMES asked what the legal intent is for the language of solicit or procures and how loosely or broadly these words could be interpreted. **Valencia Lane, Legislative Staffer** pointed out

the word "solicit" is defined as to encourage someone to commit a crime and she added since patronizing a prostitute is not a crime then it doesn't fit into the situation of one person urging another person to visit a prostitute. The amendments that were prepared for **SEN. O'NEIL** helped clarify the existing law to make more clear.

Vote: Motion carried 5-3 with **SEN. GRIMES**, **SEN. PEASE** and **SEN. HALLIGAN** voting no.

Discussion:

Valencia Lane said there was discussion referring to page 12, line 12, regarding if the age of 16 years should be changed to 18 years and she added that when the bill was drafted the 16 years of age was picked up from the statutory rape and consent statute. She explained this includes a person who is three years older than the average age, which was an attempt to exempt teenagers in consent.

Motion: Substitute Motion: **SEN. HALLIGAN** moved to AMEND SB 128 PAGE 12, LINE 12 to change the age from 16 TO 18.
EXHIBIT(4)SB012803.avl.

Discussion:

SEN. O'NEIL mentioned during the age of 16 some girls will act independently and it is hard to determine the will of their own and the will of someone else.

Vote: Motion SB 128 changing 16 years of age to 18 years of age carried 7-2 with **SEN. HOLDEN** and **SEN. O'NEIL** voting no.

Discussion:

SEN. GRIMES researched the possibility of adding some type of penalty to the bill. **Valencia Lane** said changing criminal penalties may not fit within the title of bill. The final decision would have to be from the Rules Committee or from **Greg Petesch, Legislative Staffer**, for certain types of crimes. She mentioned another option would be a committee bill.

CHAIRMAN GROSFIELD asked if civil was considered in addition to criminal. **SEN. GRIMES** answered yes and mentioned if someone was picked up and incarcerated for this then the girls that were harmed could get some civil remedy and put their life back together.

SEN. HALLIGAN said the young women involved would have a civil action due to assault, confinement or emotional distress. He added that the trouble with filing a separate lawsuit would not go to court for a certain period of time. **SEN. GRIMES** said he would like to propose a committee bill on a separate action in regard to this situation.

Motion: **SEN. GRIMES** moved **SB 128 BE ADOPTED.**

Discussion:

SEN. HALLIGAN said the intent of this bill shouldn't limit it to a patron of a house of prostitution.

SEN. O'NEIL suggested Section D and E of this amendment could be misdemeanors. **Valencia Lane** said the original intent was to amend Section D and E and **Greg Petesch, Legislative Staffer**, pointed out Section D makes it subject to a criminal penalty. She added that they clarified Section E so it would not be misconstrued.

SEN. HALLIGAN said when limiting language is added to the bill it weakens the bill. **Valencia Lane** said perhaps the language could say "fee" or "other remuneration".

SEN. HALLIGAN added there seemed to be some unintended consequences of this amendment. **SEN. O'NEIL** said the intent of the overall bill was to add penalties for pimps.

CHAIRMAN GROSFIELD said the question arises of unintended consequences and if this language would lead to other consequences.

SEN. HALLIGAN pointed out there are other places of prostitution listed in the yellow pages. He said this amendment was not procuring a prostitute and the creative levels of activity should not have misdemeanors where there ought to be felonies.

SEN. GRIMES felt the committee should look at others who solicit and although they may not charge a fee, hopefully no scenarios would be excluded from becoming a misdemeanor.

Motion/Vote: **SEN. HOLDEN** moved to reconsider and strip **SB 128** Amendments SB012802.av1. **Motion carried unanimously to BE ADOPTED.**

SEN. O'NEIL felt the bill adds language to sound like a felony. **SEN. HOLDEN** felt the language is not changing it to a felony and this is current statute. **SEN. GRIMES** mentioned this situation

depends upon the language of solicit and procure. **SEN. HALLIGAN** said remuneration could be added, putting in a fee issue would assist the situation of the bill with new language.

Valencia Lane asked for the committee to look on page nine, lines 11 and 12 regarding the definition of solicit. She explained that this language does not interpret the meaning to be a felony and consists of existing language within the bill.

{Tape 3; Side A}

Vote: Motion SB 128 DO PASS AS AMENDED carried unanimously.

Discussion Regarding a Possible Committee Bill:

SEN. GRIMES mentioned the FBI said there were 80 girls found from the state of Montana in this circuit. He said a task force was looked into and since this situation is very significant a committee task force should be formed.

CHAIRMAN GROSFIELD asked if the committee was to ask for a resolution? **SEN. GRIMES** said it would be to request a bill to be drafted in the formation of a task force.

CHAIRMAN GROSFIELD asked when this task force would present their information? **SEN. GRIMES** said it would be at a hearing, which would include the FBI, Billings Police Department and Attorney General's office. He said that the information that was constructed would be authorizing legislation for this interagency coordination.

SEN. HOLDEN opposed this proposal and added this bill should get through the process first to see how it works.

CHAIRMAN GROSFIELD asked if there was anyone searching into the validity of those numbers. **SEN. GRIMES** answered he had **SEN. BOHLINGER** reconfirmation on those numbers with the FBI and the purpose of this bill draft request would be to get the issue out.

CHAIRMAN GROSFIELD mentioned there were a couple of options for this and one would be to request information from the FBI verifying or request their presence for our committee to discuss the issue. **SEN. GRIMES** said he will look into the information further and present it to the committee.

Discussion Regarding Committee Procedures:

CHAIRMAN GROSFIELD discussed a procedural issue with secretarial minutes to the committee and asked for the chairmen to visit with their secretaries on how to handle motion/vote issues.

EXECUTIVE ACTION ON SB 222

Motion: **SEN. O'NEIL** moved **SB 222 DO PASS.**

Discussion:

SEN. GRIMES expressed the language implies to debate and litigate and he felt uncomfortable with the language in the bill.

SEN. O'NEIL responded this bill is offering the same rights in front of a jury trial as is current with a trial in front of a judge with no more rights.

SEN. HALLIGAN disagreed with the response and he added that this language talks about applicability, intent and merit of the offense charged and this law is going far beyond that. He asked if this bill is the intent of the legislature or intent of someone else to apply to a jury because it is not defined in this bill. **SEN. O'NEIL** answered this bill offers the same rights as a trial by the court and the defendant is enabled to argue the applicability intent and merit of the offense charged.

Vote: **Motion failed 8-1** with **SEN. O'NEIL** voting no.

Motion/Vote: **SEN. HALLIGAN** moved that **SB 222 BE TABLED.** Motion carried with **SEN. O'NEIL** voting no.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 8, 2001 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Bill Eggers (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 128 - 3-02-01**
SB 257 - 3-02-01
SB 282 - 3-02-01

{Tape : 1; Side : A; Approx. Time Counter : 0.1 - 29.6}

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 22.3}

Closing by Sponsor: Senator Crismore closed the Hearing on SB 282.

HEARING ON SB 128

Sponsor: Senator John Bohlinger, SD 7, Billings said he met with six law enforcement officers in Billings who shared with him the problems they are having in Montana with pimps who lured young women into the life of prostitution. This Bill will impose a fine up to \$50,000 and will send the promoters not to the county jail for six months, but to the state prison for a term not to exceed 20 years or both. This will cause pimps to reconsider recruitment efforts in Montana. We will affirm, in law, that our children are not for sale.

{Tape : 1; Side : B; Approx. Time Counter : 22.3 - 29.6}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 4.2}

Proponents: Sharon Hoff-Brodowy, Montana Catholic Conference, Helena

Tim O'Connell, Sergeant, Billings Police Department, Billings

David Morales, Former Truancy Officer, School District 2, currently with the U.S. Attorney's office, Billings

David Lemoine, FBI agent, Billings

Mike Moreni, Billings Police Dept., Billings

Dennis Paxinos, Yellowstone County Attorney, Billings

{Tape : 2; Side : A; Approx. Time Counter : 5 - 31.6}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 0.9}

Julie Millam, Montana Christian Coalition, Helena

Dallas Erickson, Montana Citizens for Decency through Law, Stevensville. EXHIBIT(2) EXHIBIT(3)

Opponents: None

Questions from Committee Members and Responses: Reps. Clark, Gutsche, Clancy, Rice, Harris, Hurdle, Laszloffy, Newman to

Morales, Mr. O'Connell, Mr. Lemoine, Mr. Paxinos, Senator Bohlinger for further information and clarification.

{Tape : 2; Side : B; Approx. Time Counter : 0.9 - 29.6}

Closing by Sponsor: Senator Bohlinger closed the Hearing on SB 128 by saying this is a serious problem, not only a Billings problem, but a state-wide problem. The officers he spoke with said if we can make this a felony crime they will then have the opportunity to raise the bonding limits and with a higher bond, these people will not just be bonded out of jail and then released. They will have to stay in jail and sent away to the state prison for 20 years. The Bill is important because it is going to help save some lives.

HEARING ON SB 257

Sponsor: Senator John Bohlinger, SD7, Billings said this Bill will provide protection of abandoned children, specifically abandonment as a basis for abuse or neglect proceedings and a determination that a child is a youth in need of care. This Bill would provide a family member care-giver to the child and shall be given priority in participating in abuse and neglect proceedings.

Under this proposal a grandparent or relative of a child who is caring for that child, who is under the age of 18, has been abandoned, or is at risk of being abandoned by their natural parents, can be described as a youth in need of care. In such a case a grandparent or relative may be allowed by the courts to intervene if it is determined it is in the child's best interest.

The purpose of this Bill is to give grandparents or extended family members of the abandoned child greater standing in the court proceedings.

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 10.7}

Proponents: Gladys Stahl, President, Southside Senior Center, Billings.

Chuck Notbohm, AARP, Clancy

Rep. Paul Clark, HD 72, Trout Creek at the request of Bud Clinch, President, Legacy Legislature Planning Committee.

Opponents: None

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 20, 2001 at
8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Steven Gallus (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 402 - 3-12-01**
SB 226 - 3-12-01
SB 368 - 3-12-01

Discussion: Reps. Laszloffy, Noennig, Peterson, Adams, Clancy, Harris, Holden, Thomas.

{Tape : 2; Side : A; Approx. Time Counter : 22.6 - 29.7}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 5.8}

Vote: Motion carried 17-3 with Reps. Eggers, Harris and Hurdle voting no.

Motion: REP. LASZLOFFY moved that SB 63 BE CONCURRED IN. #5

Motion: REP. SHOCKLEY moved that SB 63 BE AMENDED, Line 25 "without good cause" be reinserted. #6

Discussion: Reps. Clancy, Harris, Noennig.

Vote: Motion #6 carried unanimously 20-0.

Motion: REP. LASZLOFFY moved that SB 63 BE CONCURRED IN AS AMENDED. #7

Discussion: Reps. Adams, Hurdle, Newman, Clark.

Motion: REP. NEWMAN moved that SB 63 BE AMENDED, Page 1, line 28 to reinstate the words in bold print. #8

Motion/Vote: REP. LASZLOFFY moved a substitute motion that SB 63 BE TABLED. #9. Motion carried 16-4 with Reps. Clancy, Rice, Wolery and Younkin.

EXECUTIVE ACTION ON SB 128

Motion: REP. LASZLOFFY moved that SB 128 BE CONCURRED IN. #10

Discussion: Reps. Laszloffy, Harris, Noennig.

Motion: REP. HARRIS moved that SB 128 BE AMENDED. #11 EXHIBIT(2)

Discussion: Reps. Newman, Laszloffy, Clark, Harris, Hurdle, Peterson, Noennig, Adams.

{Tape : 2; Side : B; Approx. Time Counter : 5.8 - 29.5}

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 8.9}

Motion: REP. NEWMAN moved a substitute motion that SB 128 BE AMENDED. #12

Mr. MacMaster explained some technical concerns he had with the amendments.

Discussion: Reps. Newman, Shockley, Holden, Wolery, Clark, Peterson, Laszloffy, Noennig, Younkin, Hurdle, Harris, Shockley.

Rep. Newman withdrew his motion #12.

{Tape : 3; Side : A; Approx. Time Counter : 8.9 - 29.3}

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 7.7}

Vote: Motion on Harris amendment (#11) carried 10-8 with Reps. Shockley, Laszloffy, Clark, Adams, Holden, Noennig, Rice and Wolery voting no.

Motion: REP. ADAMS moved that SB 128 BE CONCURRED IN AS AMENDED. #13

Motion: REP. PETERSON moved a conceptual amendment that paragraph B, first offense, be a misdemeanor with punishment in jail, not to exceed 1 year and a fine not to exceed \$1,000 and any subsequent offense to be as stated. #14

Discussion: Reps. Peterson, Clark.

Vote: The Peterson amendment (#14) carried 17-1 with Rep. Hurdle voting no.

Discussion: Reps. Clark, Shockley, Newman, Rice, Noennig.

Motion: REP. SHOCKLEY moved that SB 128 BE AMENDED, conceptually. Page 11, line 27, the 20 years would be 10 years, on Page 12, line 10, the 100 years would be 20 years and on line 15, the 100 years would be 20 years. #15

Discussion: Reps. Younkin, Laszloffy, Mangan, Noennig.

Rep. Shockley withdrew his amendment #15.

Motion/Vote: REP. NOENNIG moved a substitute motion that SB 128 BE AMENDED. #16 Motion carried 17-1 with Rep. Newman voting no.

EXECUTIVE ACTION ON SB 426

Motion: REP. ADAMS moved that SB 426 BE CONCURRED IN. #17